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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,064	04/23/2004	Tetsuro Motoyama	252122US-2 CONT	8744
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
DAILEY, THOMAS J				
ART UNIT		PAPER NUMBER		
2152				
NOTIFICATION DATE		DELIVERY MODE		
02/20/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/830,064

Applicant(s)

MOTOYAMA ET AL.

Examiner

THOMAS J. DAILEY

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-893)
Paper No(s)/Mail Date 11/5/2004
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 31-46 are pending.

Response to Arguments

2. As the applicant noted in response to the First Office Action on the Merits dated 9/24/2007, that action did not address the proper pending claims, apparently there was an error in the file wrapper of this case. Therefore, the claims being evaluated in this Office Action are those filed and made record of on November 30, 2007 (the same claims that were filed as a preliminary amendment dated 5/12/2004), and this action is Non-Final.

Specification

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." On page 9 of the specification the applicant makes reference to "TCP/IP Illustrated, Vol. 1, The Protocols," by Stevens from Addison-Wesley Publishing Company, 1994; and Volumes 1-3 of "Internetworking with TCP/IP" by Comer and Stevens. On page 15, references are made to Wickelgren, I., "The Facts About "FireWire", IEEE Spectrum, April 1997, Vol. 34, Number 4, pp. 19-25. On page 15, references are made to SMTP

SIMPLE MAIL TRANSFER PROTOCOL (RFC 821), FTP (FILE TRANSFER PROTOCOL) (RFC 959) and Hypertext Transfer Protocol - HTTP/1.1 (RFC 2616). All of the aforementioned references were neither listed on a proper information disclosure statement, nor were any copies received. Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Objections

4. Claim 46 recites parenthetical numbers, e.g. line 5, "(1)", that do not clearly reference anything and therefore should be eliminated. Appropriate correction is required. The examiner suggests indentations to more clearly indicate the multiple operations the processor is configured to perform.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 43-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. Claims 43-45 recite, "The computer program product of claim 31 [or claim 33]."
Claims 31 and 33 are system claims, and therefore there is no computer program

product recited in those claims. The examiner believes the applicant intended to have these claims depend from claim 41 (a computer program product claim) and will be interpreted as such.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 31-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Cheng et al (US Pat. 6,151,643), hereafter "Cheng."
10. As to claim 31, Cheng discloses a method of updating a first version of a device driver installed on a computer of a user, wherein the device driver is configured to control an office device to which the computer is communicatively coupled, the method comprising:
- receiving, from the office device, version information of a newest version of the device driver that is stored in a memory of the office device (column 3, lines 25-39, user computer receives from service provider computer system (office device) information regarding available updates);

determining, based on the received version information, whether the first version of the device driver installed on the computer is different from the newest version of the device driver stored in said memory (column 3, lines 32-39);

if the determining step determines that the first version is different from the newest version, inquiring whether the user wants to update the device driver on the computer with the newest version of the device driver (column 3, lines 38-42, user identifies updates to be made; column 5, lines 28-33 also indicates a method of user approval before the software update); and

if the inquiring step determines that the user wants to update the device driver, obtaining the newest version of the device driver from the office device (column 3, lines 41-45).

11. As to claims 36, 41 and 46, they are rejected by the same rationale set forth in claim 31's rejection.

12. As to claims 32, 37, and 42, Cheng discloses:

displaying, on a display associated with the computer, a message regarding whether the user wants to update the device driver (column 5, lines 24-32, display device is inherent as the user must read the email in regards to an available update, and the approval of the update); and

receiving a response from the user, said response indicating whether the user wants to update the device driver with the newest version (column 5, lines 30-32).

13. As to claims 33, 38, and 43, Cheng discloses:

establishing a connection to the office device (column 3, lines 41-45);
receiving, from the office device, an installation file for the newest version of the device driver (column 3, lines 41-45 and column 10, lines 33-54, the URL is the installation file for the newest version of the device driver); and
storing said installation file in a temporary storage area associated with the computer (column 10, lines 33-54, client computer retrieve URL and must store it in order to access).

14. As to claims 34, 39, and 44, Cheng discloses executing the stored installation file to install the newest version of the device driver on the computer (column 10, lines 33-54, installation of software update via execution of URL).

15. As to claims 35, 40, and 45, Cheng discloses generating commands and associated data for controlling said office device, prior to said receiving step (column 3, lines 25-29).

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Dailey whose telephone number is 571-270-1246. The examiner can normally be reached on Monday thru Friday; 9:00am - 5:00pm.
17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. J. D./
Examiner, Art Unit 2152

/Bunjob Jaroenchonwanit/
Supervisory Patent Examiner, Art Unit 2152